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December 23, 2013

Marlene H. Dortch
Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

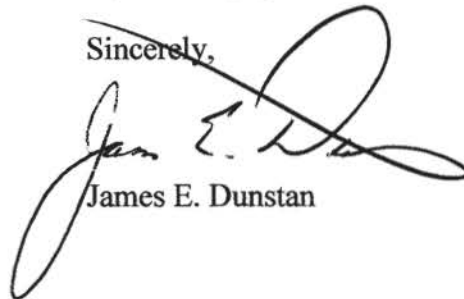
Re: MB Docket No. 13-250
RM-11705

Dear Ms. Dortch:

Enclosed please find an original and four (4) copies of the Comments of the Navajo Nation Telecommunications Regulatory Commission in the above-referenced proceeding.

Please contact this office directly with any questions.

Sincerely,



James E. Dunstan

No. of Copies rec'd 0+4
List ABCDE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Received & Inspected

DEC 27 2013

FCC Mail Room

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Tohatchi, New Mexico)

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MB Docket No. 13-250
RM-11705

To: Media Bureau

**COMMENTS OF THE NAVAJO NATION TELECOMMUNICATIONS
REGULATORY COMMISSION (NNTRC)**

The Navajo Nation Telecommunications Regulatory Commission ("NNTRC"), through undersigned counsel, and pursuant to Sections 1.415 and 1.419 of the Commission's rules (47 C.F.R. §§ 1.415 & 1.419), respectfully submits these Comments in the above-referenced proceeding in response to the Notice of Proposed Rule Making issued November 1, 2013.¹ In support of these Comments, NNTRC submits:

I. BACKGROUND

A. The Navajo Nation and the Need for Additional Broadcast Facilities

As the largest native nation in the United States in terms of reservation size, the Navajos have been particularly disadvantaged by Federal and state communications policies. The Navajo Nation consists of 17 million acres (26,111 square miles) in portions of three states (Arizona, New Mexico, and Utah). The Navajo Nation is comparable in size to West Virginia. Were it a state, the Navajo Nation would rank 4th smallest in population density; only Montana (6.5

¹ *Amendment of Section 73.202(b)(Tohatchi, New Mexico)(NPRM)*, DA 13-2105, released November 1, 2013.

persons per square mile), Wyoming (5.4) and Alaska (1.2) are less densely populated.²

Since the beginning of radio broadcasting, the Navajo people have been significantly underserved by both AM and FM broadcast service. NNTRC believes that currently there are only twelve (12) full power radio stations licensed to communities on the Navajo Nation.³ In contrast, West Virginia, similarly sized, has 135 full power FM stations and 65 AM stations licensed to its communities, or nearly 20 times as many broadcast facilities as are allocated to the Navajo Nation.

The need for additional broadcasting outlets on the Navajo Nation was brought into sharp relief this past monsoonal season from July – September, 2013. 80 out of the 110 Navajo Chapters were impacted by the heavy rains and flooding, resulting in damage to homes, buildings, and roads. The rains required the Navajo Nation Department of Emergency Management to take response measures to save life and property. Approximately 36 of the

² Compare http://en.wikipedia.org/wiki/List_of_U.S._states_by_area (states ranked by geographic area) with http://en.wikipedia.org/wiki/List_of_U.S._states_by_population_density (states ranked by population density).

³ NNTRC is unaware of a comprehensive list of AM and FM stations licensed to communities on the Navajo Nation. A review of FM and AM Query was done, where all significant communities on the Navajo Nation (including portions of Arizona, New Mexico and Utah) were entered. The following is a listing of the results:

Station	City of License	Licensee
KTDB-FM	Ramah, NM	Ramah Navajo School Board
KYGR-FM	Alamo, NM	Alamo Navajo School Board
KGHR-FM	Tuba City, AZ	Tuba City High School
KWRK-FM	Window Rock, AZ	KTNN (Navajo Nation)
KWIM-FM	Window Rock, AZ	Western Indian Ministries
KFXR-FM	Chinle, AZ	CC Licenses, LLC
KRMH-FM	Red Mesa, AZ	Red Mesa Unified School District
KXTC-FM	Thoreau, NM	Clear Channel Broadcasting
KYVA-FM	Church Rock, NM	Millennium Media, Inc.
KTNN-AM	Window Rock, AZ	KTNN (Navajo Nation)
KHAC-AM	Tse Bonito, NM	Western Indian Ministries
KTBA-AM	Tuba City, AZ	Western Indian Ministries

communities most impacted by the monsoons are within the Eastern Agency, which the NN Emergency Operations Center was unable to alert of flood hazards and warnings because of the lack of broadcasting facilities servicing this area. At this time, the Navajo Nation lacks a communication plan for the Eastern Agency, which had 68 homes that were flooded, 8,000 sandbags that needed to be distributed, three shelters for flood victims and 84,000 cases of bottled water that were distributed. Public Service Announcements via broadcast radio services would be ideal in these situations as extreme weather appears to becoming the norm.

B. The NNTRC and its Regulatory Role on the Navajo Nation

The NNTRC was established pursuant to Navajo Nation Council Resolution ACMA-36-84 in order to regulate all matters related to telecommunications on the Navajo Nation. Telecommunications is defined broadly under the Navajo Nation Code to include “any transmission, emission or reception (with retransmission or dissemination) of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, light, electricity or other electromagnetic spectrum.”⁴ The NNTRC is committed to the protection of the public welfare, regulation and the security of the Navajo Nation and its people with regard to telecommunications. Its purpose is to service, develop regulation and to exercise the Navajo Nation’s inherent governmental authority over its internal affairs as authorized by the Navajo Nation Council pursuant to NNTRC’s Plan of Operation and the Navajo Telecommunications Regulatory Act.⁵

NNTRC is specifically authorized, pursuant to the Navajo Telecommunications Regulatory Act, to act as the intermediary agency between the Navajo Nation and the Federal Communications Commission, including representing the Navajo Nation in proceedings before

⁴ 21 N.N.C. § 503 (V).

⁵ Codified at 2 N.N.C. §§ 3451 -55; 21 N.N.C. §§ 501-529.

the Commission, intervening on behalf of the Navajo Nation on matters pending before the Commission, and filing comments in rule making proceedings.

C. KTNN

KTNN is a Navajo Nation Enterprise, established in 1985 to operate KTNN AM, 660 kHz at 50,000 watts. Because of the need to protect stations to the east from interference, however, the nighttime signal of KTNN does not reach much of the Navajo Eastern Agency in New Mexico.⁶ KTNN's FM station, KWRK, licensed to Window Rock, AZ, similarly does not put service into most of the Eastern Agency in New Mexico.⁷

On July 10, 2013, KTNN filed a Petition seeking to allocate Channel 268C2 to Tohatchi, New Mexico pursuant to the Tribal Priority ("*KTNN Petition*").⁸ KTNN also submitted an FCC Form 301 construction permit application. KTNN argues that it qualifies as a Tribal entity for purposes of the Tribal Priority.

II. THE NNTRC SUPPORTS THE ALLOCATION OF CHANNEL 268C2 TO TOHATCHI, NEW MEXICO

NNTRC has reviewed the *KTNN Petition*, and supports the allocation of Channel 268C2 to Tohatchi, New Mexico. As indicated herein, the Navajo Nation as a whole is severely underserved when it comes to broadcast radio stations. This is especially true in the Eastern Agency in New Mexico. Allocating Channel 268C2 to Tohatchi would bring much needed service to this area, and will be in the public interest of the Navajo people.

⁶ See *KTNN Petition*, ¶ 7; see also <http://www.ktnnonline.com/article.asp?id=68345> (showing coverage map of KTNN nighttime signal).

⁷ *Id.*

⁸ *Id.* at ¶ 4. See *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Notice of Proposed Rule Making, 24 FCC Rcd 5239 (2009) ("*Rural NPRM*"); *First Report and Order*, 25 FCC Rcd 1583 (2010) ("*Rural First R&O*"); *Second Report and Order*, 26 FCC Rcd 2556 (2011) ("*Rural Second R&O*"); and *Third Report and Order*, 26 FCC Rcd 17642 (2011) ("*Rural Third R&O*") (collectively, "*Rural Radio*").


NNTRC also believes that KTNN qualifies for the both the allocation and construction permit grant under the Tribal Priority. KTNN is a Navajo Nation Enterprise, and wholly owned by the Navajo Nation itself. KTNN's Technical Narrative demonstrates that allocating Channel 268C2 to Tohatchi will be that community's first local aural service, and the facilities proposed by KTNN will cover more than 50% of Tribal lands with its signals.

Wherefore, the NNTRC respectfully requests that the FCC grant KTNN's petition and amend Section 73.202(b) of the FCC's Rules, the FM Table of Allocations as follows:

<u>Community</u>	<u>Current</u>	<u>Proposed</u>
Tohatchi, NM	---	268C2

Respectfully submitted,

**NAVAJO NATION TELECOMMUNICATIONS
REGULATORY COMMISSION**

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Dated: December 23, 2013

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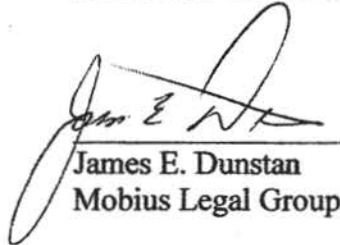
DEC 27 2013

Certificate of Service

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I, **James E. Dunstan**, hereby certify that a copy of the foregoing Comments was sent electronically to the address below on December 23, 2012, and a hard copy placed in the U.S. Mail.

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